



## COUNCIL CHAMBERS

17555 PEAK AVENUE MORGAN HILL CALIFORNIA 95037

COUNCIL MEMBERS	REDEVELOPMENT AGENCY
Dennis Kennedy, Mayor	Dennis Kennedy, Chair
Steve Tate, Mayor Pro Tempore	Steve Tate, Vice-Chair
Larry Carr, Council Member	Larry Carr, Agency Member
Mark Grzan, Council Member	Mark Grzan, Agency Member
Greg Sellers, Council Member	Greg Sellers, Agency Member

**WEDNESDAY, APRIL 20, 2005**

**AGENDA**

**JOINT MEETING**

**CITY COUNCIL SPECIAL AND REGULAR MEETING**

**and**

**REDEVELOPMENT AGENCY SPECIAL MEETING**

**6:00 P.M.**

***A Special Meeting of the City Council and Redevelopment Agency is Called at 6:00 P.M. for the Purpose of Conducting Closed Sessions.***

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**Dennis Kennedy, Mayor/Chairman**

**CALL TO ORDER**

(Mayor/Chairperson Kennedy)

**ROLL CALL ATTENDANCE**

(City Clerk/Agency Secretary Torrez)

**DECLARATION OF POSTING OF AGENDA**

**Per Government Code 54954.2**

(City Clerk/Agency Secretary Torrez)

**6:00 P.M.**

## ***City Council Action and Redevelopment Agency Action***

### **CLOSED SESSION:**

**1.**

#### **CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION**

Authority: Government Code Sections 54956.9(b) & (c)  
Number of Potential Cases: 4

**2.**

#### **CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION:**

Authority: Pursuant to Government Code 54956.9(a)  
Case Name: General Lighting Service, Inc. v. Wells Construction Group, et al. [Consolidated  
Actions]  
Case Number: Santa Clara County Superior Court, Lead Case No. 1-04-CV-025561

**3.**

#### **CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION:**

Authority: Pursuant to Government Code 54956.9(a)  
Case Name: City of Morgan Hill v. Hernandez  
Case Number: Santa Clara County Superior Court, Case No. 1-04-CV-020063

### **OPPORTUNITY FOR PUBLIC COMMENT**

### **ADJOURN TO CLOSED SESSION**

### **RECONVENE**

### **CLOSED SESSION ANNOUNCEMENT**

**7:00 P.M.**

### **SILENT INVOCATION**

### **PLEDGE OF ALLEGIANCE**

### **RECOGNITION**

Day Worker Center Committee and Workers  
*Mayor Kennedy*

Urban Limit Line Committee  
*Mayor Kennedy*

Business Recycler of the Year - Fox Racing  
Residential Recycler of the Year - The Becker Household  
*Julie Osborne, South Valley Disposal*

**PROCLAMATIONS**

National Volunteer Month  
*Evan Low, Tim Quigley, Jr.*  
*Volunteer Center of Silicon Valley*

**PRESENTATIONS**

Housing Trust of Santa Clara County  
*County Supervisor Don Gage*

Water Resources Protection Collaborative  
*Rosemary Kamei, Santa Clara Valley Water District*

Progress Report on Water Resources Collaborative  
*Ann Draper, Santa Clara Valley Water District*  
*Jim Ashcraft, Director of Public Works*

**CITY COUNCIL REPORT**

Council Member Mark Grzan

**CITY COUNCIL SUB-COMMITTEE REPORTS**

**CITY MANAGER'S REPORT**

**CITY ATTORNEY'S REPORT**

**OTHER REPORTS**

City Treasurer's Quarterly Report  
*City Treasurer Roorda*

**PUBLIC COMMENT**

**NOW IS THE TIME FOR COMMENTS FROM THE PUBLIC REGARDING ITEMS NOT ON THIS AGENDA.**  
(See notice attached to the end of this agenda.)

**PUBLIC COMMENTS ON ITEMS APPEARING ON THIS AGENDA WILL BE TAKEN AT THE TIME  
THE ITEM IS ADDRESSED BY THE COUNCIL. PLEASE COMPLETE A SPEAKER CARD AND  
PRESENT IT TO THE CITY CLERK.**  
(See notice attached to the end of this agenda.)

**PLEASE SUBMIT WRITTEN CORRESPONDENCE TO THE CITY CLERK/AGENCY SECRETARY. THE  
CITY CLERK/AGENCY SECRETARY WILL FORWARD CORRESPONDENCE TO THE CITY  
COUNCIL/REDEVELOPMENT AGENCY.**

## ***City Council Action***

**CONSENT CALENDAR:**

**ITEMS 1-14**

The Consent Calendar may be acted upon with one motion, a second and the vote, by each respective Agency. The Consent Calendar items are of a routine or generally uncontested nature and may be acted upon with one motion. Pursuant to Section 5.1 of the City Council Rules of Conduct, any member of the Council or public may request to have an item pulled from the Consent Calendar to be acted upon individually.

**Time Estimate**  
**Consent Calendar: 1 - 10 Minutes**

**Page**

1.	<b><u>MARCH 2005 FINANCE &amp; INVESTMENT REPORT</u></b> .....	1
	<b><u>Recommended Action(s):</u></b> <u>Accept</u> and <u>File</u> Report.	
2.	<b><u>AWARD CONTRACT FOR CONSTRUCTION OF INTERIM OVERFLOW PARKING LOT AT THE AQUATICS CENTER</u></b> .....	11
	<b><u>Recommended Action(s):</u></b>	
	1. <u>Award</u> Contract for Construction of the Interim Overflow Parking Lot at the Aquatics Center to Trinchero Construction in the Amount of \$50,477; Subject to Review and Approval by the City Attorney; and	
	2. <u>Authorize</u> Expenditure of up to 10% (\$5,048) for Construction Contingency.	
3.	<b><u>AGREEMENTS WITH PACIFIC MUNICIPAL CONSULTANTS, AND THE INSTITUTE &amp; CORRALITOS CREEK LLC REGARDING IMPLEMENTATION OF THE INSTITUTE GOLF COURSE PUD MITIGATION MONITORING AND REPORTING PLAN (MMRP)</u></b> .....	15
	<b><u>Recommended Action(s):</u></b>	
	1. <u>Authorize</u> the City Manager to Execute the Agreement between the City of Morgan Hill and Pacific Municipal Consultants, Subject to Review and Approval by the City Attorney; and	
	2. <u>Authorize</u> the City Manager to Execute the Agreement between the City of Morgan Hill and The Institute & Corralitos Creek, LLC; Subject to Review and Approval by the City Attorney.	
4.	<b><u>APPROVAL OF INSTALLATION OF PERCHLORATE REMOVAL SYSTEM FOR NORDSTROM WELL FOR SUMMER OF 2005</u></b> .....	35
	<b><u>Recommended Action(s):</u></b> <u>Authorize</u> Issuance of Purchase Order to US Filter in the Amount of \$158,082.	
5.	<b><u>THIRD AMENDMENT TO AGREEMENT WITH THE STROMBOTNE LAW FIRM</u></b> .....	39
	<b><u>Recommended Action(s):</u></b> <u>Authorize</u> the City Manager to Execute a Third Amendment to Agreement with the Strombotne Law Firm.	
6.	<b><u>SECOND AMENDMENT TO AGREEMENT WITH MACLELLAN WOLFSON ASSOCIATES</u></b> .....	53
	<b><u>Recommended Action(s):</u></b> <u>Authorize</u> the City Manager to Execute a Second Amended Agreement with MacLellan Wolfson Associates.	
7.	<b><u>AGREEMENT WITH THE LAW FIRM OF JORGENSEN, SIEGEL, McCLURE &amp; FLEGEL, LLP</u></b> .....	63
	<b><u>Recommended Action(s):</u></b> <u>Authorize</u> the City Manager to Execute an Agreement with the Law Firm of Jorgenson, Siegel, McClure & Flegel, LLP. (Vierra Case)	
8.	<b><u>AGREEMENT WITH THE LAW FIRM OF JORGENSEN, SIEGEL, McCLURE &amp; FLEGEL, LLP</u></b> .....	75
	<b><u>Recommended Action(s):</u></b> <u>Authorize</u> the City Manager to Execute an Agreement with the Law Firm of Jorgenson, Siegel, McClure & Flegel, LLP. (Berkman, et al Case)	
9.	<b><u>AMENDMENT TO CONTRACT FOR CONSULTANT PLANNING SERVICES</u></b> .....	85
	<b><u>Recommended Action(s):</u></b> <u>Authorize</u> the City Manager to Execute a Contract Amendment in an Amount Not to Exceed \$37,637 for Contract Planning Services.	

	Time Estimate	Page
	Consent Calendar: 1 - 10 Minutes	
10.	<b><u>ADOPT ORDINANCE NO. 1719, NEW SERIES</u></b> .....	103
	<b><u>Recommended Action(s):</u></b> <u>Waive</u> the Reading, and <u>Adopt</u> Ordinance No. 1719, New Series, and <u>Declare</u> That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by Title and Further Reading Waived; Title as Follows: <b>AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL AMENDING SECTION 2.22.010 (Establishment of boards and commissions) OF Chapter 2.22 (Master Provisions for Boards and Commissions) OF TITLE 2 (Administration and Personnel) DELETING REFERENCE TO THE PERSONNEL COMMISSION AND RENAMING THE LIBRARY COMMISSION.</b>	
11.	<b><u>ADOPT ORDINANCE NO. 1720, NEW SERIES</u></b> .....	107
	<b><u>Recommended Action(s):</u></b> <u>Waive</u> the Reading, and <u>Adopt</u> Ordinance No. 1720, New Series, and <u>Declare</u> That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by Title and Further Reading Waived; Title as Follows: <b>AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AN AMENDMENT TO SECTION 18.76.250.H.1.B OF THE SIGN CODE TO INCREASE THE MAXIMUM ALLOWABLE SIGN AREA FOR ON-SITE FREESTANDING SIGNS ON LOTS FIVE ACRES OR GREATER IN SIZE IN COMMERCIAL AND INDUSTRIAL PLANNED UNIT DEVELOPMENTS FROM 48 SQUARE FEET TO 50 SQUARE FEET (ZA-05-02: TEXT AMENDMENT – MONUMENT SIGNS/FORD MOTOR CO.)</b>	
12.	<b><u>ADOPT ORDINANCE NO. 1721, NEW SERIES, AS AMENDED</u></b> .....	111
	<b><u>Recommended Action(s):</u></b> <u>Waive</u> the Reading, and <u>Adopt</u> Ordinance No. 1721, New Series, As Amended, and <u>Declare</u> That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by Title and Further Reading Waived; Title as Follows: <b>AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING TEXT AMENDMENTS TO CHAPTER 6.36 (ANIMALS AND LAND USE) OF TITLE 6 (ANIMALS) OF THE MUNICIPAL CODE OF THE CITY OF MORGAN HILL. (ZA-04-22: CITY OF MORGAN HILL-ACREAGE REQUIRED FOR ANIMALS; AND REQUIREMENT FOR RESIDENTIAL PRIVATE LIVESTOCK PERMIT).</b>	
13.	<b><u>APPROVE SPECIAL CITY COUNCIL MEETING MINUTES OF APRIL 6, 2005</u></b> .....	119
14.	<b><u>APPROVE SPECIAL CITY COUNCIL MEETING MINUTES OF APRIL 11, 2005</u></b> .....	121

## ***City Council and Redevelopment Agency Action***

### **CONSENT CALENDAR:**

#### **ITEMS 15-16**

	Time Estimate	Page
	Consent Calendar: 1 - 10 Minutes	
15.	<b><u>MORGAN HILL COURTHOUSE AGREEMENT</u></b> .....	123
	<b><u>Recommended Action(s):</u></b> <u>Authorize</u> the Executive Director/City Manager to Execute, making Minor Modifications as needed and Subject to Review and Approval by the City Attorney/Agency Counsel, an Agreement with the County of Santa Clara Regarding Clarification of the County's Responsibilities under the Existing Ground Lease.	

**Time Estimate** **Page**  
**Consent Calendar: 1 - 10 Minutes**

16.	<b><u>APPROVE SPECIAL AND REGULAR CITY COUNCIL AND SPECIAL REDEVELOPMENT AGENCY MEETING MINUTES OF APRIL 6, 2005</u></b> .....	131
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## ***Redevelopment Agency Action***

### **CONSENT CALENDAR:**

#### **ITEMS 17-22**

**Time Estimate** **Page**  
**Consent Calendar: 1 - 10 Minutes**

17.	<b><u>MARCH 2005 REDEVELOPMENT AGENCY FINANCE &amp; INVESTMENT REPORT</u></b> .....	145
	<b><u>Recommended Action(s):</u></b> <u>Accept</u> and <u>File</u> Report.	
18.	<b><u>THIRD QUARTER REPORT FROM THE CHAMBER OF COMMERCE ECONOMIC DEVELOPMENT PARTNERSHIP</u></b> .....	171
	<b><u>Recommended Action(s):</u></b>	
	1. <u>Accept</u> Report; and	
	2. <u>Authorize</u> the Executive Director to Amend the Agreement, as necessary, to Allow for Monthly Invoicing of Services; Subject to Review and Approval by Agency Counsel.	
19.	<b><u>CASA DIANA MIXED-USE PROJECT - LAND ACQUISITION AND MASTER PLANNING LOAN</u></b> .....	181
	<b><u>Recommended Action(s):</u></b> <u>Authorize</u> the Executive Director to do Everything Necessary and Appropriate to Negotiate, Execute and Implement a Loan Agreement with EAH, Inc., Subject to Review and Approval by Agency Counsel, for a Loan of Up to \$2,165,000 for EAH, Inc. to Acquire Two Parcels of the Casa Diana Housing Commercial Mixed-Use Project, and to Master Plan the Entire Area.	
20.	<b><u>AGREEMENT WITH RICHARDS, WATSON &amp; GERSHON</u></b> .....	185
	<b><u>Recommended Action(s):</u></b> <u>Authorize</u> the Executive Director to do Everything Necessary to Prepare and Execute an Agreement with Richards, Watson & Gershon (RWG) in an Amount not to Exceed \$35,000 for Services Associated with Evaluating the Feasibility of Amending the Redevelopment Plan; Subject to Review and Approval by Agency Counsel.	
21.	<b><u>HOUSING TRUST OF SANTA CLARA COUNTY</u></b> .....	187
	<b><u>Recommended Action(s):</u></b> <u>Authorize</u> the Executive Director to do Everything Necessary to Prepare and Execute the Required Agreements with the Housing Trust of Santa Clara County (HTSCC) to Commit \$200,000 in Agency 20% Housing Set Aside Funds to the HTSCC over a Three-Year Period.	
22.	<b><u>HABITAT FOR HUMANITY – HOUSING PROJECT</u></b> .....	193
	<b><u>Recommended Action(s):</u></b> <u>Authorize</u> the Executive Director to Execute any and all Documents Necessary, Subject to Review and Approval of Agency Counsel, to Grant Silicon Valley Habitat for Humanity (Habitat) an Amount Not to Exceed \$560,000 for the Construction of a Six-Unit Affordable Ownership Housing Project.	

## City Council Action

### OTHER BUSINESS:

	Time Estimate		Page
23.	45 Minutes	<b><u>URBAN LIMIT LINE-GREENBELT STUDY: REVIEW OF ADVISORY COMMITTEE RECOMMENDATIONS</u></b> .....	197
		<b><u>Recommended Action(s):</u></b>	
		1. <b><u>Receive</u></b> the Urban Limit Line Advisory Committee's Final Report;	
		2. <b><u>Direct</u></b> Staff to Include an Industrial Land Market Analysis as a Work Plan Item in the Fiscal Year 2005/2006 City Budget; and	
		3. <b><u>Direct</u></b> Staff to Return to the Council in June with an Analysis of the Final Report and Recommendations for an Action Plan to Move the Urban Limit Line-Greenbelt Program forward into the Environmental Review and Implementation Process.	

**Correspondence:** Santa Clara Valley Audubon Society

## City Council Action

### PUBLIC HEARINGS:

	Time Estimate		Page
24.	5 Minutes	<b><u>WATER CONSERVATION SUBMETERING ORDINANCE</u></b> (Continued from April 6, 2005) .....	217
		Public Hearing Opened.	
		Please Limit Your Remarks to 3 Minutes. Public Hearing Closed	
		Council Discussion.	
		Action- <b><u>Motion to Waive</u></b> the Reading in Full of the Ordinance to Amend Chapter 13.04 of the Municipal Code.	
		Action- <b><u>Motion to Introduce</u></b> Ordinance by Title Only. (Roll Call Vote)	
25.	5 Minutes	<b><u>SOLID WASTE MANAGEMENT RATE ADJUSTMENT</u></b> .....	223
		Public Hearing Opened.	
		Please Limit Your Remarks to 3 Minutes. Public Hearing Closed	
		Council Discussion.	
		Action- <b><u>Adopt</u></b> the Refuse Rate Resolution.	

## City Council Action

### OTHER BUSINESS: (CONTINUED)

	Time Estimate		Page
26.	10 Minutes	<b><u>AGREEMENT BETWEEN THE CITY AND INDEPENDENCE DAY, INC. (IDI) TO CO-SPONSOR THE JULY FOURTH CELEBRATIONS</u></b> .....	229
		<b><u>Recommended Action(s): Determine</u></b> the Level of City Financial Participation.	

## ***City Council and Redevelopment Agency Action***

### **OTHER BUSINESS:**

	<b>Time Estimate</b>		<b>Page</b>
27.	10 Minutes	<b><u>REQUEST FOR SPONSORSHIP OF THE 26<sup>TH</sup> ANNUAL MORGAN HILL MUSHROOM MARDI GRAS EVENT</u></b> .....	231
		<b><u>Recommended Action(s):</u></b> <u>Consider</u> the Request by Morgan Hill Mushroom Mardi Gras for \$10,000 Sponsorship of the 26 <sup>th</sup> Annual Mushroom Mardi Gras Event.	

## ***City Council Action***

### **OTHER BUSINESS: (CONTINUED)**

	<b>Time Estimate</b>		<b>Page</b>
28.	15 Minutes	<b><u>ADOPTION OF ETHICS POLICY FOR CITY COUNCIL, COMMISSIONERS, BOARD MEMBERS, AND COMMITTEE MEMBERS</u></b> .....	235
		<b><u>Recommended Action(s):</u></b>	
		1. <u>Adopt</u> Ethics Policy;	
		2. <u>Direct</u> Staff to Distribute Ethics Policy to all Commissioners, Board Members, and Committee Members; <u>Solicit</u> Input, and <u>Report</u> Back to City Council;	
		3. <u>Consider</u> Input from Members of Boards, Commissions, and Committees; and Whether Ethics Policy Should be Revised; and	
		4. Following City Council Approval of the Finalized Version of the Ethics Policy, <u>Direct</u> Staff to Provide Training on the Ethics Policy to all Commissioners, Board Members, and Committee Members.	
29.	10 Minutes	<b><u>RECONSIDERATION OF FISCAL YEAR 2005-2006 OPERATING AND CAPITAL IMPROVEMENT BUDGET SCHEDULE</u></b> .....	243
		<b><u>Recommended Action(s):</u></b> <u>Consider</u> Mayor's Request to Reschedule the Fiscal Year 2005-2006 Budget Workshop, and the Indoor Recreation Center Ground Breaking Ceremony.	
30.	10 Minutes	<b><u>AWARD CONTRACT FOR CONSTRUCTION OF INDOOR RECREATION CENTER</u></b> (Continued from April 6, 2005).....	245
		<b><u>Recommended Action(s):</u></b>	
		1. <u>Approve</u> Project Plans and Specifications; and	
		2. <u>Consider</u> Staff Recommendation to be Presented at, or Prior to, the City Council Meeting.	

### **FUTURE COUNCIL-INITIATED AGENDA ITEMS:**

Note: in accordance with Government Code Section 54954.2(a), there shall be no discussion, debate and/or action taken on any request other than providing direction to staff to place the matter of business on a future agenda.

### **ADJOURNMENT**